

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

<b>MATTHEW LEE SMITH,</b>	)	
	)	<b>Civil Action No. 08 - 953</b>
<b>Petitioner,</b>	)	
	)	<b>District Judge Terrence F. McVerry</b>
<b>v.</b>	)	
	)	
<b>COMMONWEALTH OF PENNSYLVANIA;</b>	)	
<b>ROBERT SHANNON, Supt.; THE</b>	)	
<b>ATTORNEY GENERAL OF THE STATE</b>	)	
<b>OF PENNSYLVANIA,</b>	)	
	)	
<b>Respondents.</b>	)	

**MEMORANDUM ORDER**

On April 14, 2008, the above captioned case was initiated by the filing of a Motion to Proceed In Forma Pauperis accompanied by a Petition for Writ of Habeas Corpus and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation filed on October 24, 2008 (doc. no. 18) recommended that the Respondents' Motion to Dismiss Petition for Writ of Habeas Corpus on Grounds of Mootness (doc. no. 14) be granted. Petitioner was served with the Report and Recommendation and advised that he was allowed until November 10, 2008 to file written objections to the Report and Recommendation. No Objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

**AND NOW**, this 14<sup>th</sup> day of November, 2008;

**IT IS HEREBY ORDERED** that Respondents' Motion to Dismiss Petition for Writ

of Habeas Corpus on Grounds of Mootness (doc. no. 14) is **GRANTED** and the Petition for Writ of Habeas Corpus is **DISMISSED AS MOOT**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (doc. no. 18) of Magistrate Judge Lenihan dated October 24, 2008, is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

s/ Terrence F. McVerry  
United States District Judge

cc: Lisa Pupo Lenihan  
United States Magistrate Judge

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